This course provides an introduction to the economic analysis of law and legal institutions. Our goal is to develop intuitions about the ways law simultaneously shapes and responds to private behavioral incentives. In the first half of the course, we will survey the application of key economic concepts to basic features of the Anglo-American common law of property, contract, and tort. In the second half of the course, we will use the tools developed in our survey to focus in depth on the law of intellectual property.

Texts
1. Course pack [available from study.net] (required)

Exams and Grading
Grades are based on professionalism (15%) and the results of midterm (35%) and final (50%) exams, the format of which will be discussed in class.
**Idiosyncratic Policies**

This course will involve a combination of lecture, discussion, and “Socratic” questioning. Cold calling will be a regular feature of class. Therefore, students are expected to read the assigned materials carefully and be ready to discuss them critically.

Three policies to note:

- **Electronic devices.** Electronic devices are not permitted in class. If an emergency requires that you have connectivity, confer with me before class.

- **Unfinished readings.** It is not always feasible to complete readings before class. If you cannot finish an assignment, please let me know by email at least an hour before class, and I will not call on you (max four times during the semester). Please do not pretend to have read what you haven’t.

- **Regrading.** All grades are final. Complaints about grades will result in a one-step grade reduction for the course.

More generally, students are expected to behave like adults. Shirking and whining are especially discouraged. A secondary goal of this course is to develop social intuitions about how to create a strong reputation within a business organization. Teaser: everyone likes someone who is courteous, punctual, engaged, and positive; everyone dislikes the opposite.

**Informal Get-Togethers**

Let’s have coffee or lunch. We can but needn’t talk about law or economics!

// agenda on next page
Agenda (subject to change by announcement on Canvas)

Tentative reading assignments are listed below. Optional readings are designated with an *.

1. **1.20.21** — reading judicial opinions; legal rules as price determinants
   
   **Readings**
   
   Kerr, How to Read a Legal Opinion
   
   *Talley v. Mathis*
   
   *Posner, §§ 1.1, 1.2*

2. **1.25.21** — property rights
   
   **Readings**
   
   Rose, Possession as the Origin of Property
   
   Demsetz, Toward a Theory of Property Rights
   
   *Posner, §§ 2.1, 2.2, 2.3, 3.1*

3. **1.27.21** — getting property
   
   **Readings**
   
   *Ghen v. Rich*
   
   *Haslem v. Lockwood*
   
   *South Staffordshire Water Co. v. Sharman*

4. **2.1.21** — property and the injunction: information and monopoly
   
   **Readings**
   
   *Armory v. Delamirie*
   
   *Ploof v. Putnam*

5. **2.3.21** — property and externalities: a basis for regulation?
   
   **Readings**
   
   Coase, The Problem of Social Cost

6. **2.8.21** — contract remedies: efficient breach and opportunism
   
   **Readings**
   
   *Acme Mills Elevator Co. v. Johnson*
   
   *Hadley v. Baxendale*

7. **2.10.21** — incomplete contracts: default rules
   
   **Readings**
   
   *Taylor v. Caldwell*
   
   Ayres & Gertner, Filling Gaps in Incomplete Contracts
   
   *Posner, §§ 4.10 – 4.14, 4.16*
8. **2.15.21** — the mailbox rule: coin-flipping and arbitrary rules  
*Readings* Caldwell v. Cline

9. **2.17.21** — the law of accidents: taking precautions  
*Readings* United States v. Carroll Towing  
Indiana Harbor Belt Ry. Co. v. American Cyanamid  
*Posner, §§ 6.1, 6.2, 6.5

10. **2.22.21** — detecting and penalizing torts  
*Readings* Polinsky & Shavell, Punitive Damages (pp. 870–903)

11. **2.24.21** — causation puzzles  
*Readings* Summers v Tice  
Brauer v. New York Central  
*Posner, §§ 6.1, 6.7

12. **3.1.21** — nuisance  
*Readings* Calabresi & Melamed, One View of the Cathedral

13. **3.3.21** — critiques of the economic analysis of law  
*Readings* Dworkin, Is Wealth a Value?  
Leff, Economic Analysis of Law: Some Realism about Nominalism

14. **3.8.21** — midterm exam

15. **3.15.21** — overview of IP regime; characteristics of information goods  
Arrow, Economic Welfare and the Allocation of Resources for Invention  
Demsetz, Information and Efficiency: Another Viewpoint

16. **3.17.21** — patents i: patentable ideas; remedies  
*Readings* 35 U.S.C. §§ 101–03, 111(a), 112, 113, 154(a)  
Bilski v. Kappos  
eBay v. MercExchange
17. 3.22.21 — patents ii: patent misuse
Readings  
Motion Picture Patents v. Universal Film Manufacturing
Stigler, A Note on Block-Booking
Morton Salt v. G.S. Suppiger

18. 3.24.21 — patents iii: search costs, thickets, open source economics
Readings  
Heller & Eisenberg, Can Patents Deter Innovation?
Benkler, Coase’s Penguin

19. 3.29.21 — trade secrets
Readings  
Uniform Trade Secrets Act §§ 1–3
DuPont v. Christopher
Waymo v. Uber (complaint)

20. 3.31.21 — copyright i: originality; substitutes for copyright
Readings  
17 U.S.C. §§ 102, 106, 107, 201, 501(a)
Feist v. Rural Telephone Service
ProCD v. Zeidenberg

21. 4.5.21 — copyright ii: derivative works; fair use; substantial similarity
Readings  
Klinger v. Conan Doyle Estate
Dr. Seuss Enterprises v. Penguin Books
Computer Associates International v. Altai

22. 4.7.21 — copyright iii: contributory infringement
Readings  
Sony v. Universal City Studios
MGM Studios v. Grokster
17 U.S.C. § 512

23. 4.12.21 — trademarks i
Readings  
15 U.S.C. §§ 1051(a), 1111, 1114(1), 1125(a), 1115
Zatarains v. Oak Grove Smoke House
24. 4.14.21 — trademarks ii
   Readings Jay Franco & Sons v. Franek
   Adidas America v. Skechers USA

25. 4.19.21 — publicity
   Readings Illinois Right of Publicity Act
   Jordan v. Jewel Food Stores
   Wendt v. Host International

26. 4.21.21 — intellectual property and cartelization
   Readings Standard Oil (Indiana) v. United States
   FTC v. Actavis

27. 4.26.21 — national borders and intellectual property
   Readings TBD

28. 4.28.21 — review
   Readings none / all

FINAL EXAM
Date and time TBD